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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,778	07/01/2004	Petr Kvita	HF/5-22603/A/PCT	8508

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PATENT DEPARTMENT
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EXAMINER	
KHAN, AMINA S	

ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/500,778	KVITA ET AL.	
	Examiner	Art Unit	
	Amina Khan	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 June 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 4-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 4-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to applicant's arguments filed on June 26, 2006.

2. Claims 1,2 and 4-19 are pending. Claim 3 has been cancelled. Claims 14-7,14,15 and 17-19 have been amended.

3. In view of applicant's amendments and arguments, all prior rejections are withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1,2 and 4-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (US 6,734,299) in view of Tittmann et al. (US 5,705,605).

Clark et al. teaches detergent compositions comprising deposition aid moieties and benefit agent moieties in a weight ratio of 100:1 to 1:10,000, wherein the benefit agent can be a dye fixative (column 7, lines 60-67; column 24, claim 1). Clark et al. further teaches benefit agents that may be encapsulated by materials such as starches, polyvinyl acetates and urea/formaldehyde condensates (column 11, lines 25-20). Clark

et al. further teaches that the benefit agent/dye fixative may be incorporated into detergent or fabric softening compositions at 0.01-25% (column 14, lines 48-65). Clark et al. further teaches the washing and softening compositions may comprise 0-30% weight nonionic surfactants, such as C10-C15 aliphatic alcohols ethoxylated with an average of 1-10 moles of ethylene oxide per mole of alcohol (column 15, lines 30-45), 5-80% detergency builders such as zeolites (column 16, lines 25-36), 0.1-35% bleaches (column 17, lines 40-43), 1-5% powdered structurants (column 18, lines 45-55), antiredeposition agents, dyes, perfumes (column 18, lines 53-60) and water (column 19, lines 15-25). Clark et al. further teach that the particulate detergent compositions can be prepared by spray drying or dry mixing and granulation (column 19, lines 1-15).

Clark et al. is silent as to the claimed water-soluble dye fixatives and does not teach all the instantly claimed limitations in a single example.

Tittmann et al. teaches the instantly claimed dye fixatives and their utility as aftertreatment agents for enhancing the washfastness properties of dyed or printed textile materials (abstract; column 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods and compositions taught by Clark et al. by incorporating the dye fixatives taught by Tittmann et al. because Tittmann et al. teaches the enhanced wastfastness of dyed textiles aftertreated with these compounds. Furthermore, Clark et al. invites the inclusion of dye fixatives as benefit agents into the treatment compositions. It is well known in the art to launder dyed textiles as an

aftertreatment. One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

Although Clark et al. does not teach all the claimed ingredients at the instantly claimed percentages in a single embodiment, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select the portion of the Clark et al. range which is within the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch,* 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges "overlap or lie inside ranges disclosed by the prior art", see *In re Wertheim,* 541 F.2d 257, 191 USPQ 90 (CCPA 1976; *In re Woodruff,* 919 F.2d 1575, 16USPQ2d 1934 (Fed. Cir. 1990). See MPEP 2131.03 and MPEP 2144.05I.

All disclosures of the prior art, including non-preferred embodiment, must be considered. See In re Lamberti and Konort, 192 USPQ 278 (CCPA 1967); In re Snow 176 USPQ 328(CCPA 9173). Nonpreferred embodiments can be indicative of obviousness, see *Merck & Co. v. Biocraft Laboratories Inc.* 10 USPQ 2d 1843 (Fed. Cir. 1989); *In re Lamberti*, 192 USPQ 278 (CCPA 1976); *In re Kohler,* 177 USPQ 399. A

reference is not limited to the working examples, see *In re Fracalossi*, 215 USPQ 569 (CCPA 1982).

6. Claims 1,2,4-9,11,12 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panandiker et al. (US 6,156,722) in view of Tittmann et al. (US 5,705,605).

Panandiker et al. teaches methods of laundering fabrics (column 10, lines 6-19) with compositions comprising 1-80% surfactants (column 2, lines 29-30), specifically C_{11}-C_{13} alkylbenzene sulfonates and $R^1(OC_2H_4)_nOH$, where R^1 is C_{10}-C_{16} alkyl group and n is 3-80 (column 3, lines 11-18), 0.1-80% detergent builders, specifically zeolite aluminosilicates (column 3, lines 40-41; column 4, lines 7-8), 0.1-5% dye fixatives, (column 4, lines 34 and 55), 2-30% bleaches such as perborate (column 6, lines 31-32; column 7, lines 49-50), fillers, perfumes, and dyes (column 6, lines 5-6). Panandiker et al. further teaches the compositions are granular and made by combining base ingredients and spray drying to a low level of residual moisture then admixing remaining ingredients with the spray dried granules in a rotary mixing drum, and spraying on liquid ingredients to form finished composition (column 9, lines 35-45). Panandiker et al. further teaches that dye fixatives impart fabric benefits to fabrics and textile laundered in washing solutions (abstract) and improve washfastness of certain dyes (column 1, lines 30-35).

Panandiker et al. is silent as to the claimed water-soluble dye fixatives and does not teach all the instantly claimed limitations in a single example.

Tittmann et al. teaches the instantly claimed dye fixatives and their utility as aftertreatment agents for enhancing the washfastness properties of dyed or printed textile materials (abstract; column 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods and compositions taught by Panandiker et al. by incorporating the dye fixatives taught by Tittmann et al. because Tittmann et al. teaches the enhanced wastfastness of dyed textiles aftertreated with these compounds. Furthermore, Panandiker et al. invites the inclusion of dye fixatives as benefit agents into the treatment compositions. It is well known in the art to launder dyed textiles as an aftertreatment. One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

Although Clark et al. does not teach all the claimed ingredients at the instantly claimed percentages in a single embodiment, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select the portion of the Clark et al. range which is within the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch,* 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ

233, 235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges "overlap or lie inside ranges disclosed by the prior art", see *In re Wertheim,* 541 F.2d 257, 191 USPQ 90 (CCPA 1976; *In re Woodruff,* 919 F.2d 1575, 16USPQ2d 1934 (Fed. Cir. 1990). See MPEP 2131.03 and MPEP 2144.05I.

All disclosures of the prior art, including non-preferred embodiment, must be considered. See In re Lamberti and Konort, 192 USPQ 278 (CCPA 1967); In re Snow 176 USPQ 328(CCPA 9173). Nonpreferred embodiments can be indicative of obviousness, see *Merck & Co. v. Biocraft Laboratories Inc.* 10 USPQ 2d 1843 (Fed. Cir. 1989); *In re Lamberti*, 192 USPQ 278 (CCPA 1976); *In re Kohler,* 177 USPQ 399. A reference is not limited to the working examples, see *In re Fracalossi*, 215 USPQ 569 (CCPA 1982).

7. Claims 1,2,4-8,11,13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuzmenka et al. (US 6,627,591) in view of Tittmann et al. (US 5,705,605).

Kuzmenka et al. teaches methods of laundering fabrics (column 10, lines 6-19) with compositions comprising up to 90% dye fixatives (column 3, lines 55-60), 0.001-10% ethylenediaminetetracetates, aminocarboxylates, citrates and aminophosphates (column 4, lines 20-60), colorants, surfactants and fragrances (column 2, lines 55-60, column 3, lines 1-5, column 6, examples). Kuzmenka et al. further teaches that dye fixatives impart improvement in color shade retention and minimal dye transfer to

treated fabrics (column 2, lines 1-10) and can be used in the presence of a detergent (column 1, lines 65-67).

Kuzmenka et al. is silent as to the claimed water-soluble dye fixatives and does not teach all the instantly claimed limitations in a single example.

Tittmann et al. teaches the instantly claimed dye fixatives and their utility as aftertreatment agents for enhancing the washfastness properties of dyed or printed textile materials (abstract; column 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods and compositions taught by Kuzmenka et al. by incorporating the dye fixatives taught by Tittmann et al. because Tittmann et al. teaches the enhanced wastfastness of dyed textiles aftertreated with these compounds. Furthermore, Kuzmenka et al. invites the inclusion of dye fixatives as benefit agents into the treatment compositions. It is well known in the art to launder dyed textiles as an aftertreatment. One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

Although Kuzmenka et al. does not teach all the claimed ingredients at the instantly claimed percentages in a single embodiment, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select the portion of the Clark et al. range which is within the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through

routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch,* 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges "overlap or lie inside ranges disclosed by the prior art", see *In re Wertheim,* 541 F.2d 257, 191 USPQ 90 (CCPA 1976; *In re Woodruff,* 919 F.2d 1575, 16USPQ2d 1934 (Fed. Cir. 1990). See MPEP 2131.03 and MPEP 2144.05I.

All disclosures of the prior art, including non-preferred embodiment, must be considered. See In re Lamberti and Konort, 192 USPQ 278 (CCPA 1967); In re Snow 176 USPQ 328(CCPA 9173). Nonpreferred embodiments can be indicative of obviousness, see *Merck & Co. v. Biocraft Laboratories Inc.* 10 USPQ 2d 1843 (Fed. Cir. 1989); *In re Lamberti*, 192 USPQ 278 (CCPA 1976); *In re Kohler,* 177 USPQ 399. A reference is not limited to the working examples, see *In re Fracalossi*, 215 USPQ 569 (CCPA 1982).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amina Khan whose telephone number is (571) 272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Amina Khan
Patent Examiner
September 27, 2006

LORNA M. DOUYON
PRIMARY EXAMINER